



Linked third parties:

Who are they, and what makes them different?

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COST Targeted Network TN1302: BESTPRAC

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Agenda

- Cases
- Linked third parties:
 - Definition
 - Main categories
 - Typical examples
- Key rules
- Differences from other third parties
- Key issues



Cases

- **Subsidiary**
 - Company with our university as majority owner
- Long-term strategic research collaboration agreement with research organization and university hospital
- European Research Infrastructure Consortium (ERIC)
 - Under consideration



Linked third parties: Definition

- Established formal relationship
- Broad in content, extending beyond the project
- Long-term, lasting beyond the project
- Has a formal external recognition



Linked third parties: Main categories

- Affiliated entities
 - Ownership or control
 - Vertically or horizontally
- Entities with a legal link to the beneficiary



Affiliated entities

- Nature of link/relationship
 - under the direct or indirect control of the beneficiary, or
 - under the same direct or indirect control as the beneficiary, or
 - directly or indirectly controlling the beneficiary.
- What is "control"?
 - the direct or indirect holding of more than 50% of
 - the nominal value of the issued share capital, or
 - the voting rights of the shareholders or associates
 - the direct or indirect holding, in fact or in law, of decision-making powers in the legal entity concerned



Controlling relationships – Exceptions

- legal entities where more than 50% of the nominal value of the issued share capital or the voting rights of the shareholders or associates is owned/held by the same public investment corporation, institutional investor or venture-capital company
- legal entities owned or supervised by the same public body.



Entities with a legal link to the beneficiary

- Any legal entity which has a legal link to the beneficiary implying collaboration that is not limited to the action
 - Established relationship which is broad and not specifically created for the work in the GA
 - substance extends beyond the project
 - duration extends beyond the project
 - "usually pre-dates and outlasts the GA"
 - Legal relationship
 - legal structure, or
 - agreement / contract



Legal relationships

- Legal structure, example:
 - the relationship between an association and its members
- Agreement / contract, example:
 - a collaboration agreement for research in a particular field



Typical examples

- **Affiliated entities**
 - Parent companies
 - Subsidiaries
 - Sister companies
- **Entities with a legal link to the beneficiary**
 - JRUs – Joint Research Units
 - Members of associations
 - Long-term, institutional research collaboration agreements



Linked third parties: Key rules

- FP7
 - Article 7 of the ECGA
 - Special clause 10
- H2020
 - Article 6.3 (option for linked 3rd parties)
 - Article 14 of the MGA



Differences from other 3rd parties – H2020

Types of third parties	CHARACTERISTICS						
	Does work of the action	Provides resources or services	What is eligible?	Must be indicated in Annex 1	Indirect costs	Selecting the third party	Articles
Linked third party	YES	NO	Costs	YES	YES	Must be affiliated or have a legal link	Article 14
Subcontractors	YES	NO	Price	YES	NO	Best value for money, avoid conflict of interest	Article 13
Third party providing in-kind contributions	NO	YES	Costs	YES	YES	Not used to circumvent the rules	Articles 11 and 12
Contractors	NO	YES	Price	NO	YES	Best value for money, avoid conflict of interest	Article 10
Financial support to third parties	<u>Only if allowed in the call</u> The beneficiaries' activity consists in providing financial support to the target population			YES	NO	According to the conditions in Annex 1	Article 15

Source: European Commission



Key issues

- Linked 3rd parties perform action tasks and are responsible for them towards the beneficiary
- The beneficiary is responsible towards the EC
- Work is attributed to the linked 3rd party
- Work is under the full and direct control, instructions and management of the linked 3rd party
- The beneficiary is financially responsible for any undue amount paid by the EC as reimbursement of costs of a linked 3rd party, BUT:
 - The EC may require joint and several liability of a linked 3rd party, if:
 - the financial viability/capacity of a beneficiary is 'weak'
 - the beneficiary mainly coordinates the work of its linked 3rd party
- Linked 3rd parties must submit their own Form Cs



Questions?

